

## *Notice to Inmates Filing Civil Actions*

*As a result of legislation passed in April, 1996, once an action is filed and given a civil action number, you will be responsible for the entire \$350.00 filing fee, regardless of the final disposition of the case. This includes a voluntary dismissal.*

## NOTICE TO INMATES FILING SECTION 1983 COMPLAINTS

On April 26, 1996, legislation was enacted which states (1) that an action can not be brought by a prisoner confined in any jail, prison, or other correctional facility with respect to prison conditions until such administrative remedies that are available have been exhausted and (2) that a prisoner seeking to bring a civil action (or appeal a judgment in a civil action or proceeding) without prepayment of fees must submit a certified copy of his/her trust fund account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

This legislation requires the prisoner to pay the full filing fee of \$350.00 if bringing an action in federal court (or \$455.00 if filing a notice of appeal). In the event the prisoner is unable to pay the full filing fee at the time the action is brought, the court is required to assess an initial partial filing fee and after the initial partial filing fee is made, the prison at which the prisoner is incarcerated is required to forward to the Clerk's office monthly payments of 20 percent of the preceding month's income credited to the inmate's account until the full \$350.00 filing fee is paid.

You should be aware that this legislation also states that a prisoner proceeding without prepayment of the filing fees can not bring an action if on 3 or more prior occasions the prisoner has brought an action that was dismissed as frivolous, malicious or fails to state a claim upon which relief can be granted **unless** the prisoner is under imminent danger of serious physical injury.

*When filing a complaint, you **must** submit the following:*

*(1) A copy of your inmate trust fund account for the 6-month period prior to filing the complaint. If you have been housed at more than one facility, you must submit a copy from each of the facilities during that 6-month time period;*

*and*

*(2) A sworn statement that all administrative remedies have been exhausted. Attached is a form that can be used when submitting your complaint for filing.*

**INSTRUCTIONS FOR FILING A COMPLAINT BY A  
STATE PRISONER UNDER THE CIVIL RIGHTS ACT  
42 UNITED STATES CODE SECTION 1983  
OR BY A FEDERAL PRISONER IN FILING A BIVENS CLAIM**

This packet contains two (2) copies of a complaint form and one (1) financial affidavit form. To start an action you **MUST** file an original complaint with original signature, one copy of your complaint for the court **AND** one copy for each defendant you name. For example, if you name two defendants, you must file an original and three copies of the complaint. If a Federal Agency or Federal employee is a defendant, you must file four additional copies. You should keep or photocopy an additional copy of the complaint for your own records. **THE COURT CANNOT PROVIDE FREE PHOTOCOPIES TO LITIGANTS EXCEPT IN SPECIAL INSTANCES.** If you should name more than two defendants, additional copies of the complaint form will be made available to you. Do not argue law or facts in the complaint, as such argument is improper. Try to avoid use of extra sheets and do not submit exhibits or other evidentiary matters unless the Court directs you to do so. All copies of the complaint must be identical to the original.

**The complaint will not be filed unless it conforms to these instructions and to these forms.**

Your complaint must be legibly typewritten or handwritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. **Your complaint can be brought in this Court only if one or more of the named defendants is located within this district (see attached list).** Further, you must file a separate complaint for each claim that you have unless they are all related to the same incident or issue. *You are also required to furnish, so that the U.S. Marshal can complete service, the correct name and address of each person you have named as a defendant.*

*If you seek permission to file a case without prepayment of the required fees and costs (\$350.00 filing fee and Marshal Service fee for each defendant served), you can fill out the application to proceed without the prepayment of fees. Your application to proceed in forma pauperis must be accurate, for it is subject to close scrutiny and the Court will seek financial information about you from prison or jail officials. If you choose to pay the \$350.00 filing fee at the time you send your complaint, the fee may be paid in cash, or by check or money order made payable to "Clerk, U.S. District Court." The U.S. Marshal will notify you regarding the fees for service and any monies should be forwarded to the U.S. Marshal Service.*

When these forms are completed, **mail the original with original signature** to the:

Clerk, United States District Court  
Eastern District of North Carolina  
P.O. Box 25670  
Raleigh, NC 27611

**EASTERN DISTRICT OF NORTH CAROLINA**  
Clerk's Office, United States District Court,  
Eastern District of North Carolina, P.O. Box  
25670, Raleigh, NC 27611

BEAUFORT  
BERTIE  
BLADEN  
BRUNSWICK  
CAMDEN  
CARTERET  
CHOWAN  
COLUMBUS  
CRAVEN  
CUMBERLAND  
CURRITUCK  
DARE  
DUPLIN  
EDGECOMBE  
FRANKLIN  
GATES  
GRANVILLE  
GREENE  
HALIFAX  
HARNETT  
HERTFORD  
HYDE  
JOHNSTON  
JONES  
LENOIR  
MARTIN  
NASH  
NEW HANOVER  
NORTHAMPTON  
ONSLOW  
PAMLICO  
PASQUOTANK  
PENDER  
PERQUIMANS  
PITT  
ROBESON  
SAMPSON  
TYRRELL  
VANCE  
WAKE  
WARREN  
WASHINGTON  
WAYNE  
WILSON

**MIDDLE DISTRICT OF NORTH CAROLINA**  
Clerk's Office, United States District Court  
Middle District of North Carolina, P.O. Box  
2708, Greensboro, NC 27402

ALAMANCE  
CABARRUS  
CASWELL  
CHATHAM

DAVIDSON  
DAVIE  
DURHAM  
FORSYTH  
GUILFORD  
HOKE  
LEE  
MONTGOMERY  
MOORE  
ORANGE  
PERSON  
RANDOLPH  
RICHMOND  
ROCKINGHAM  
ROWAN  
SCOTLAND  
STANLY  
STOKES  
SURRY  
YADKIN

**WESTERN DISTRICT OF NORTH CAROLINA**  
Clerk's Office, United States District Court,  
Western District of North Carolina, Federal  
Building, Room 204, 401 West Trade Street,  
Charlotte, NC 28202

ALEXANDER  
ALLEGHANY  
ANSON  
ASHE  
AVERY  
BUNCOMBE  
BURKE  
CALDWELL  
CATAWBA  
CHEROKEE  
CLAY  
CLEVELAND  
GASTON  
GRAHAM  
HAYWOOD  
HENDERSON  
IREDELL  
JACKSON  
LINCOLN  
MACON  
MADISON  
McDOWELL  
MECKLENBURG  
MITCHELL  
POLK  
RUTHERFORD  
SWAIN  
TRANSYLVANIA  
UNION  
WATAUGA  
WILKES  
YANCEY

# UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff*

v.

\_\_\_\_\_  
*Defendant*

)  
)  
)  
)  
)

Civil Action No. \_\_\_\_\_

## APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS (Short Form)

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested.

In support of this application, I answer the following questions under penalty of perjury:

1. *If incarcerated.* I am being held at: \_\_\_\_\_.

If employed there, or have an account in the institution, I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months for any institutional account in my name. I am also submitting a similar statement from any other institution where I was incarcerated during the last six months.

2. *If not incarcerated.* If I am employed, my employer's name and address are:

My take-home pay or wages are: \$ \_\_\_\_\_ per (specify pay period) \_\_\_\_\_.

3. *Other Income.* In the past 12 months, I have received income from the following sources (check all that apply):

- |  |                              |                             |
|--|------------------------------|-----------------------------|
| (a) Business, profession, or other self-employment | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (b) Rent payments, interest, or dividends          | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (c) Pension, annuity, or life insurance payments   | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (d) Disability, or worker's compensation payments  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (e) Gifts, or inheritances                         | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (f) Any other sources                              | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

*If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.*

4. Amount of money that I have in cash or in a checking or savings account: \$ \_\_\_\_\_ .

5. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name (*describe the property and its approximate value*):

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses (*describe and provide the amount of the monthly expense*):

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:

8. Any debts or financial obligations (*describe the amounts owed and to whom they are payable*):

*Declaration:* I declare under penalty of perjury that the above information is true and understand that a false statement may result in a dismissal of my claims.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Applicant's signature*

\_\_\_\_\_  
*Printed name*

**FORM TO BE USED BY A STATE PRISONER IN FILING A COMPLAINT UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. SECTION 1983 OR BY A FEDERAL PRISONER IN FILING A BIVENS CLAIM.**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
\_\_\_\_\_ DIVISION

NO. \_\_\_\_\_  
(leave this space blank)

\_\_\_\_\_

\_\_\_\_\_  
(enter full names of each plaintiff(s))

v.

Inmate Number \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(enter full names of each defendant(s))

\*\*\*\*\*

**I. HAVE YOU BEGUN OTHER LAWSUITS IN FEDERAL COURT DEALING WITH THE SAME FACTS INVOLVED IN THIS ACTION? YES ( ) NO ( )**

If your answer is YES, describe the former lawsuit in the space provided below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**II. DID YOU PRESENT THE FACTS RELATING TO YOUR COMPLAINT TO THE STATE INMATE GRIEVANCE PROCEDURE? YES ( ) NO ( )**

If your answer is YES:

1. What steps did you take? \_\_\_\_\_
2. What was the result? (Attach copies of grievances or other supporting documentation.)

\_\_\_\_\_

### VERIFIED STATEMENT

I have been advised of the requirements regarding exhaustion of administrative remedies and now submit this verified statement.

(Please choose the box that applies to your action):

\_\_\_\_\_ There are no grievance procedures at the correctional facility at which I am being confined.

\_\_\_\_\_ This cause of action arose at \_\_\_\_\_, and I am now being housed at \_\_\_\_\_. Therefore, I do not believe I have administrative remedies relating to this complaint at this time.

\_\_\_\_\_ I have exhausted my administrative remedies relating to this complaint and have attached copies of grievances demonstrating completions.

### III. PARTIES:

**In Item "A" below, place your name in the first blank and your present address in the second blank. Do the same for additional plaintiffs, if any. NOTE: ALL PLAINTIFFS LISTED IN THE CAPTION ON THE FIRST PAGE SHOULD BE LISTED IN THIS SECTION.**

A. Name of Plaintiff :

Name of Present Confinement

Address of Present Confinement

**In Item "B" below, place the full name of defendant in the first blank, his official position in the second blank, and his place of employment in the third blank. Use Item (C) through (F) for additional defendants. NOTE: ALL DEFENDANTS LISTED IN THE CAPTION ON THE FIRST PAGE SHOULD BE LISTED IN THIS SECTION.**

B. Defendant

Position

Employed at

Address

Capacity in which being sued: Individual ( ) Official ( ) Both ( )

C. Defendant

Position

Employed at

Address

Capacity in which being sued: Individual ( ) Official ( ) Both ( )

D. Defendant



## Position

Employed at

Address

Capacity in which being sued: Individual ( ) Official ( ) Both ( )

### E. Defendant

Position

Employed at

Address

Capacity in which being sued: Individual ( ) Official ( ) Both ( )

## F. Defendant

## Position

Employed at

Address

Capacity in which being sued: Individual ( ) Official ( ) Both ( )

#### IV. STATEMENT OF CLAIM

State here as briefly as possible the **FACTS** of your case. Describe how **each** defendant is involved. Include also the names of the other persons involved, dates and places. **DO NOT GIVE ANY LEGAL CITATIONS OR ANY LEGAL ARGUMENTS OR CITE ANY STATUTES.** If you wish to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach extra sheets if necessary.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on the right side, suggesting it's resting on a surface.

## V. RELIEF SOUGHT BY PRISONER

State briefly exactly what you want the Court to do for you. **MAKE NO LEGAL ARGUMENTS. DO NOT CITE CASES OR STATUTES.**

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Signed this \_\_\_\_ day of \_\_\_\_\_, 200\_\_ .

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Signature of Plaintiff

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Signature of other Plaintiffs  
(if necessary)

**I declare under penalty of perjury that the foregoing is true and correct.**

---

Date

---

Signature of Plaintiff

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Signature of other Plaintiffs  
(if necessary)